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Bill 26

Ontario's

Environmental Bill of Rights

General Information Session
Version 2

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Environmental Bill of Rights

General Information Session

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IN RIGHT OF ONTARIO AS REPRESENTED BY
THE MINISTER OF ENVIRONMENT AND ENERGY, 1994

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Introduction

The Environmental Bill of Rights

The Environmental Bill of Rights was founded on the principles that the people of Ontario: recognize the inherent value of the natural environment; have a right to a healthful environment; have as a common goal the protection, conservation and restoration of the natural environment for the benefit of present and future generations; and, should have a means to ensure that the government, with it's primary responsibility for achieving the goal of protecting the environment, do so in an effective, timely, open and fair manner.

The EBR establishes new rights and processes which will be used to ensure the foundational principles are fulfilled. There will be a means by which the residents of Ontario can participate in making environmentally significant decisions by the government and means will be available for holding the government accountable with respect to those decisions. There will be increased access to the courts by the residents of Ontario and enhanced protection for employers who take action in respect of environmental harm.

The Environmental Bill of Rights Office

The purpose of the Environmental Bill of Rights Office (EBRO) is to establish and implement procedures to enable the Ministry to fulfil its obligations under the Environmental Bill of Rights, facilitate the government-wide implementation of the Bill, establish the Office of the Environmental Commissioner, render operational a publicly accessible Electronic Registry (ER) and make provisions for the training of Ministry staff.

Training

As part of the plans to implement the Bill, the Environmental Bill of Rights Office is sponsoring a series of education and training sessions for Ministry of Environment and Energy staff and government staff. This session represents the first of a series of training sessions planned between January 1994 and October 1994.

The purpose of the General Information Session is to:

- educate staff on the principles, purposes and content of the Act;
- provide staff with the basic knowledge and tools to understand and implement the Act; and,
- assist staff in responding to public inquiries about the Act in an informed and effective manner.

Training manuals will be made available for each participant at the beginning of the session. The participants will be able to keep the manual and take it back to their workplace at the conclusion of the session. The manuals are designed to provide Ministry staff with general information about the EBR, both during and after the training session. Tabs for each of the eight learning modules, along with icons to the left of the text within each module, enable individuals to use the manual as a 'quick reference' when the need arises, whether it be to answer the employee's own questions or those from others (including the general public).

To provide a mechanism for continuous improvement in the design and delivery of the training materials, the Environmental Bill of Rights staff and the trainers welcome your comments on ways to better satisfy the training needs with respect to implementation of Bill 26. Please make sure you complete the evaluation form for this session to facilitate this process.

For further information, contact:

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Toronto, Ont. M4V - 1P5
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Fax: (416)-323-5031

Module 1: Background Information

Learning Goals

When you have completed this portion of the General Information training session, you will be able to answer these questions:

- What is the Environmental Bill of Rights (EBR)?
- How was the EBR developed?
- What is the principal intent of the EBR?
- Upon what principles is the EBR based?
- What are the purposes of the EBR?
- How will these purposes be accomplished?
- General

Background Information

1.1 What is the EBR?

EBR stands for the Ontario Government's **BILL 26, An Act respecting Environmental Bill of Rights.** It has been formulated on the principle that any citizen has the right to participate in decisions which affect the environment. It is intended to open the government's environmental decision-making process to public scrutiny to a far greater extent than in the past. Business will be provided with a uniform and predictable process for obtaining environmental approvals and will allow the public access to information which will facilitate their participation in environmental decision-making.

1.2 How Was the EBR Developed?

On October 1, 1991, the Ontario Government announced the creation of the EBR Task Force with representation from business, environmental groups, the legal profession and government. The Task Force ensured broad based input through extensive consultation with members of the constituencies. The process resulted in creation of the Task Force Report and a draft Bill which was presented to the Legislature on July 8, 1992.

Subsequently, public comment to the draft Bill from labour, farmers, business and industry, municipalities, environmentalists, environmental consultants, lawyers and other individuals resulted in 59 supplementary recommendations.

1.3 When was the EBR Finalized?

Based on the Task Force Report , the draft Bill and the supplementary recommendations, the final Environmental Bill of Rights was prepared and presented to the Ontario Legislature on May 31, 1993. The Bill received Royal Assent on December 14, 1993.

1.4 On What Principles is the EBR Based?

As stated in the preamble to the Act, the EBR is founded on the following **principles**:

- **"The people of Ontario recognize the inherent value of the natural environment.**
- **The people of Ontario have a right to a healthful environment.**
- **The people of Ontario have as a common goal the protection, conservation and restoration of the natural environment for the benefit of present and future generations.**
- **While the government has the primary responsibility for achieving the goal, the people should have means to ensure that it is achieved in an effective, timely, open and fair manner".**

1.5 What is the Purpose of the EBR?

By the means provided in the Bill, the purposes are:

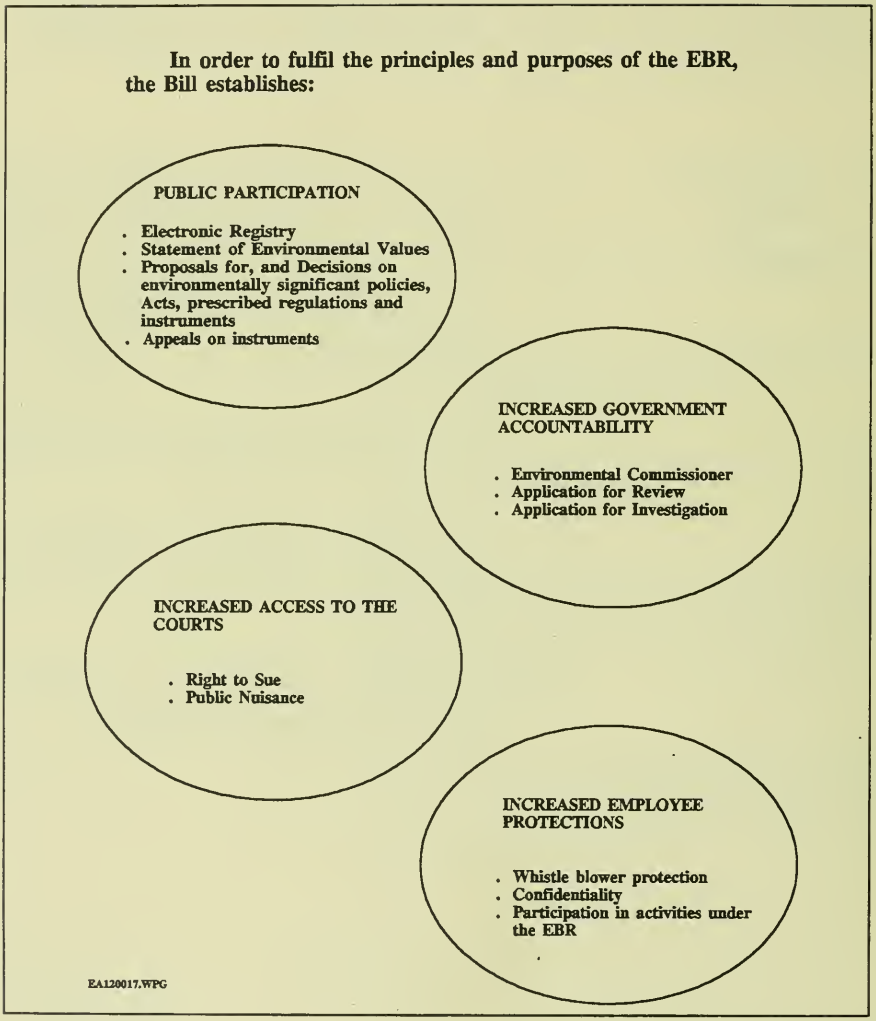
- **to protect, conserve and, where reasonable, restore the integrity of the environment;**

- **to provide sustainability of the environment and**
- **to protect the right to a healthful environment.**

1.6 The purposes of the Bill include:

- the prevention, reduction and elimination of the use, generation and release of pollutants that are an unreasonable threat to the integrity of the environment;
- the protection and conservation of biological, ecological and genetic diversity;
- the protection and conservation of natural resources, including plant life, animal life, and ecological systems;
- the encouragement of the wise management of our natural resources, including plant life, animal life, and ecological systems;
- the identification, protection, and conservation of ecologically sensitive areas or processes.

Figure 1.1: EBR Overview



Module 2: Overview of the Parts of the EBR

Learning Goals

When you have completed this portion of the General Information session, you will be able to answer these questions:

- What parts does the Environmental Bill of Rights include?
- What does each of the eight parts of the Environmental Bill of Rights address?
- How does each of these parts relate to the principles and purposes which form the basis of the Act?

Overview of the Eight Parts of the EBR

2.1 Eight Parts of the EBR

The EBR includes the following eight parts:

Part 1: Definitions and Purpose
Part 2: Public Participation in Government Decision Making
Part 3: The Environmental Commissioner
Part 4: Applications for Review
Part 5: Applications for Investigation
Part 6: Right to Sue
Part 7: Employer Reprisals
Part 8: General: Regulations under the Act

Let's consider what each part addresses.

2.2 Part 1: Definitions

This part of Bill 26 contains the definitions and interpretative provisions. Definitions provided in the Act include: the meaning of the term "**environment**"; what is meant by "**harm**" to the environment; and definitions for "**policy**", "**instrument**", and "**regulation**" (see glossary).

☞ All Ministry staff should be familiar with the purposes and processes of the EBR to:

- be knowledgeable of their responsibilities under the EBR and,
- respond to public inquiries.

Specific details are outlined in latter parts of this manual.

2.3 Part 2: Public Participation in Government Decision Making

Part 2 of the EBR establishes minimum timelines, requirements, and procedures for public participation that must be met before the Government of Ontario can make environmentally significant decisions. (see Figure 2.2)

2.3.1 Public Notice through the Environmental Registry

The Bill provides for the creation of the **Environmental Registry**, a computerized bulletin board which enables the citizens of Ontario to access information when specified ministries in the government are making environmentally significant decisions.

Information found on the Registry will include:

- General Information on the Bill;
- draft and final statements of environmental values;
- proposals for, and decisions on, new policies and Acts, and prescribed regulations and instruments;
- appeals on instruments; and,
- court actions.

Other processes and procedures which meet or exceed the EBR minimum requirements for public participation (e.g. Environmental Assessment Act) will not be duplicated. Some items such as emergencies and budget proposals are exempt from the Bill.

☞ Since the Registry is the primary access for information to allow for public participation, Ministry staff should be aware of:

- the existence of the Registry,
- type of information available,
- public access points,
- where the public can get help in using the Registry

☞ Some Ministry staff will be given additional training in the use of the Registry in the next phase of EBR training.

2.3.2 Statement of Environmental Values

Each of the fourteen prescribed ministries within the Act is required to develop a **Statement of Environmental Values (SEV)** through public notice and consultation. The SEV created by each ministry will state how:

- the purposes of the EBR will be applied when decisions are made that might significantly affect the environment; and
- how environmental considerations are integrated with other considerations in decision making processes.

2.3.3 Proposals for Policies, Acts Regulations, and Instruments

The Bill applies to environmentally significant:

- policies;
- prescribed Acts;
- regulations under prescribed Acts; and
- prescribed instruments.

> ☞ Ministry staff involved in making decisions (including staff involved in the development of policy, Acts or regulations and the issuance of instruments) should be knowledgeable of their Ministries' SEV. The MOEE SEV is expected to be available internally in early March 1994.

2.4 Part 3: The Environmental Commissioner

As outlined in Part 3, the Bill provides for the establishment of the office of the **Environmental Commissioner** to serve as an independent body, or watchdog, to oversee and report on the implementation and operation of the Environmental Bill of Rights.

The position will be filled for a five-year term as a result of an appointment by the Legislative Assembly. The Commissioner will report annually to the Ontario Legislature. The annual report will include ministries performance in relation to the EBR requirements. If serious problems (e.g. failure of a ministry to comply with the SEV) arise, the Commissioner must make interim reports to the Legislature.

☞ Ministry staff should be aware that the Environmental Commissioner plays a central role in monitoring the provisions of the Bill (see modules 5 and 6).

2.5 Part 4: Application for Review

This part of the EBR permits any two residents of Ontario to request:

- reviews of existing government policies, or prescribed Acts, regulations and instruments; and
- the need for new policies, Acts and regulations.

The requests submitted to the Environmental Commissioner are forwarded to the appropriate ministry.
Names and personal information are kept confidential.

☞ Ministry staff involved in past and future environmental decision-making may be called upon to assist in the review and preparation of rationale behind the decisions.

2.6 Part 5: Application for Investigation

This part stipulates that any two residents of Ontario together may request an investigation through the Environmental Commissioner if they believe there are alleged offenses of environmental laws (e.g. a prescribed Act, regulation or instrument). They must submit a sworn statement requesting an investigation to the Environmental Commissioner. Names and personal information identifying the applicants are kept confidential.

> ☞ The Environmental Bill of Rights will formalize the procedures for requesting investigations and will define specific time frames. For MOEE, the actual processing of the request will continue using the currently established procedures by Operations Division and Investigation and Enforcement Branch.

2.7 Part 6: Right to Sue

This Part of Bill 26 includes:

- new rights to access the courts
- removal of barriers to public nuisance

2.7.1 Civil Action

Under this Part of the EBR, a law suit may be initiated as a last resort by a member of the public against:

- an individual who is alleged to have broken an environmental law resulting in significant environmental harm to a public resource,*

- anyone who is alleged to imminently break an environmental law which will cause significant environmental harm to a public resource.

* you must first complete the Application for Investigation procedures

It is important to note that the EBR creates a new right to sue, but does not create new offences. In addition, an individual can go to court only to protect a public resource and not to receive personal award or compensation for damages.

2.7.2 Public Nuisance

Under this part of the EBR:

- any person who has suffered direct economic loss or personal injury as a result of a public nuisance causing environmental harm may sue for damages or other remedies.

☞ Ministry staff will not be involved in the initiation of court action. However staff may be called upon as expert witnesses, as is the current procedure. Ministry staff should be aware of this provision when responding to public inquiries.

☞ Where imminent environmental harm is about to occur, and the application for investigation has been by-passed, the courts will make the determination as to whether the harm is "significant".

2.8 Part 7: Employer Reprisals

This part provides:

- expanded whistle-blower protection for workers who reveal environmentally harmful activities of their employers. The protections will apply to twenty statutes under the EBR and allows employees to take complaints against employers to the Ontario Labour Relations Board (OLRB)

- protections to employees who participate in any activity under the EBR (e.g. exercising public participation rights, input to ministry Statement of Environmental Values, policies, Acts, etc.) or requesting a review or investigation.

In conducting an inquiry into a complaint, a labour relations officer or the Board must determine if improper action against an employee has taken place. If this is the case, the Board will order the employer to terminate the actions specified in the complaint. The employer is required to rectify the situation, reinstate the employee (with or without salary for lost wages) or compensate the employee for loss of earnings.

☞ Ministry staff should be aware that this will expand "whistle blower" protections under the Environmental Protection Act to all prescribed Acts under Environmental Bill of Rights. Ministry staff will also be protected from reprisals for any activities under the Environmental Bill of Rights in which they may be involved.

☞ Confidentiality sections of the EBR are consistent with FOIPOP

Self-Evaluation Questions

1. How will citizens access the necessary information to enable them to participate in environmental decision-making?

2. List the four areas where significant environmental decisions could be made by government ministries.

3. Each of the fourteen (14) government ministries under the EBR is required to produce a Statement of Environmental Values (SEV). What should each of these SEVS provide?

4. Who will have responsibility to act as a 'watchdog' to ensure the terms of the EBR are implemented and adhered to?

5. What is the purpose of the **Request for Review** (Part 4)?

6. How do I initiate a **Request for Investigation** (Part 5)?

7. How can you initiate a **Court Action** under the Environmental Bill of Rights?

8. Explain the purpose of the **Employer Reprisals Provision**.

Module 3: Statement of Environmental Values

Learning Goals

On completion of this module, you will be able to answer the following questions:

- What are the two objectives of the Statement of Environmental Values (SEV)?
- What is the intent of the SEV and how must it be considered in the EBR?
- Which Ministries are required to develop and implement a SEV?
- How and when will a ministry SEV be developed?
- How will the application of SEV in the decision-making process be monitored?

Statement of Environmental Values

3.1 What is the Objective of the Statement of Environmental Values?

The Statement of Environmental Values is intended to explain how:

- the purposes of the Act are to be applied where decisions that might significantly affect the environment are made in a ministry; and
- consideration of the purposes of the Act should be integrated with other considerations, including social, economic and scientific, that are part of decision making in the ministry.

The SEV has two principal functions. First it is designed to guide internal ministry staff when making decisions that may have an impact on the natural environment. This will ensure that the purposes of the EBR are being carried out. Second, the SEV will serve as a benchmark against which the public and the Environmental Commissioner may evaluate a ministry's decisions.

3.2 How is the SEV Developed?

Each ministry has already developed, or is in the process of developing a draft SEV through a consultation process. In the development of the Bill, it was recognized that ministries have different mandates and principle stakeholders and administer different programs and services. For example, some ministries are in the business of building (e.g. Ministry of Transportation), while the mandate of other ministries focuses on regulation (e.g.

Ministry of Environment and Energy). In addition, some ministries permit the extraction of aggregate, while others concentrate on the preservation of land for agriculture. As a result, the creation of a "Corporate Ontario" with a single SEV for all ministries would be inappropriate. **The EBR provides for a specialized application of the Bill's purposes by requiring each ministry to produce its own SEV.**

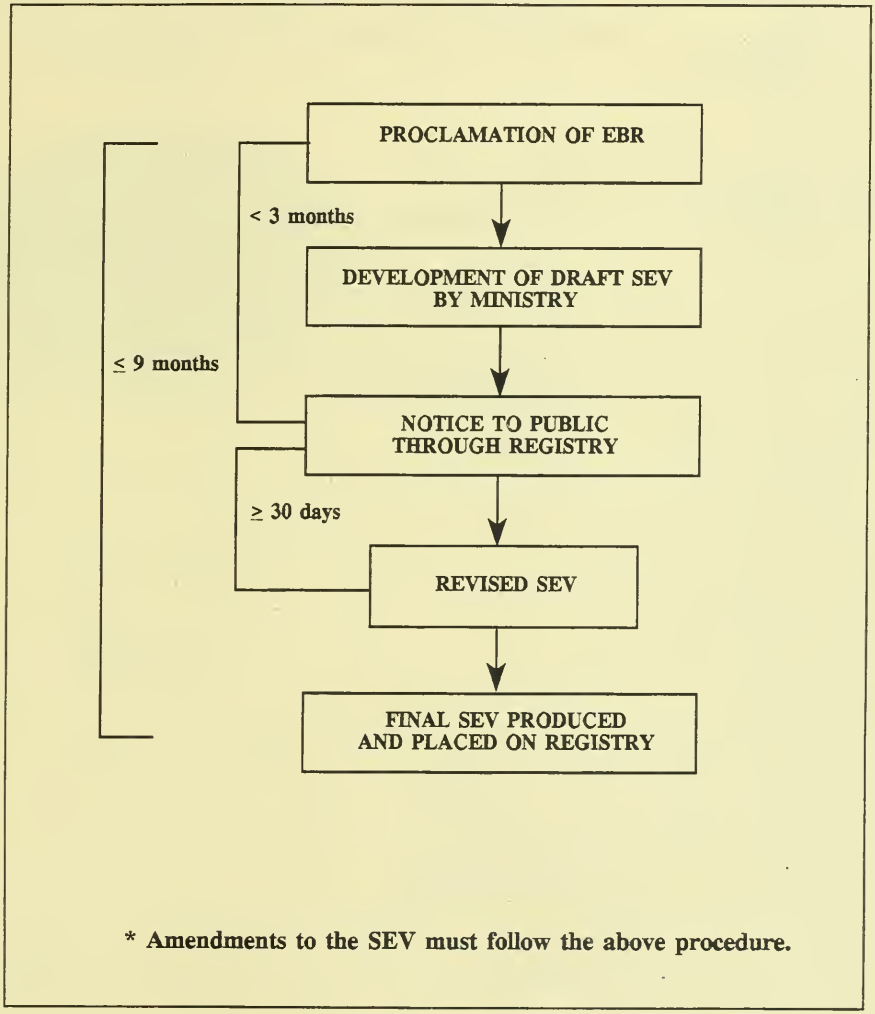
To promote public participation, the full text of the draft SEV will be placed on the Registry. The Minister may wish to provide additional opportunities for public input into the process.

Each ministry subject to the EBR must have a fully developed Statement of Environmental Values in place 9 months after proclamation of the Act. If the proclamation date is January 1994, then the final SEV must be developed and implemented by **October 1994**.

☞ The SEV is **not** meant to be a guarantee that the purposes of the Act will be embodied in every decision. Rather, **the goal is to ensure that the environment is given consideration with economic, social, and scientific matters when decisions are made**. The SEV will form guiding principles in a ministry's commitment to take the environment into account when making decisions. Through these guiding principles it is anticipated there will be a change in the way ministries operate.

A flow diagram explaining the development of the SEV, with time lines, as required under the EBR is provided below.

Figure 3.1: SEV Process



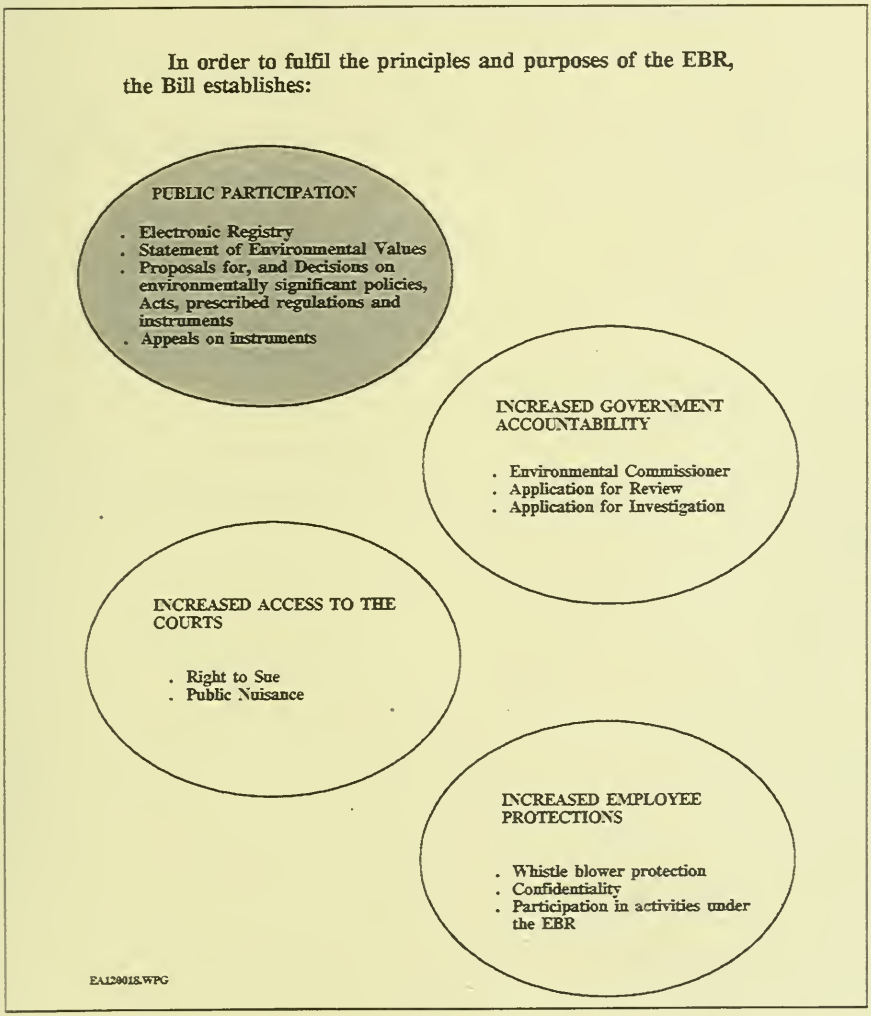
3.3 How Will the SEV be Implemented and Monitored?

Once the SEV has been fully developed, each ministry will be responsible for implementing, and monitoring its use to ensure that it is applied in decision-making. The public will be able to evaluate and comment on the actions of the ministry relative to the principles set out in the SEV.

3.3.1 Reports to the Legislature

The Environmental Commissioner will also monitor implementation and use of the various SEVs. He/she is required to make an annual report on ministry compliance with the EBR to the Legislature. If a ministry has not complied with the legislative requirements to produce a final SEV or has ignored the SEV when making environmental decisions, the Environmental Commissioner must bring a report to the attention of the Legislature.

Figure 3.2: EBR Overview



Self-Evaluation Questions

1. What is the Statement of Environmental Values created by each ministry designed to accomplish?

2. How will EBR make the government accountable for its actions when making environmental decisions?

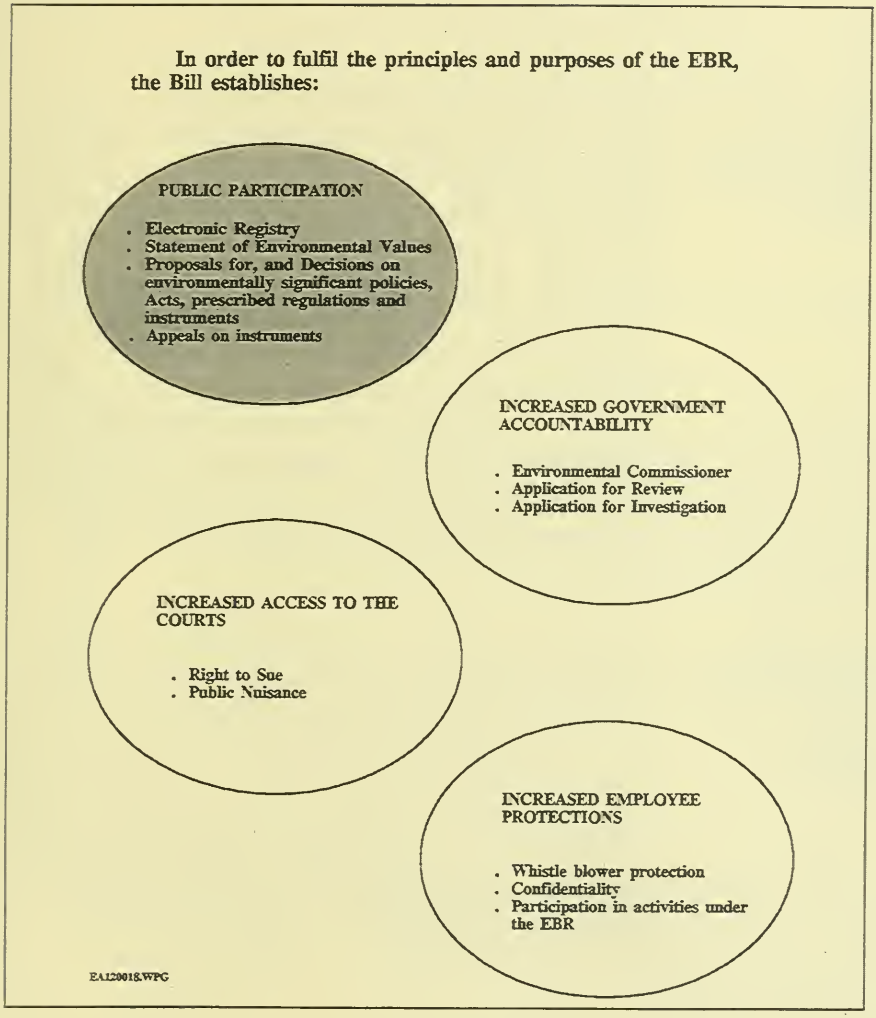
Module 4: Public Participation and the Environmental Registry

Learning Goals

When you have completed this module, you will be able to answer the following questions:

- What is the purpose of the Environmental Registry?
- What mechanisms have been established to facilitate accessibility of the Registry and its operation and maintenance?
- What is meant by the term "prescribed", policy, regulations, Regulatory Impact Statement, and instrument?
- Which are the prescribed Acts for MOEE?
- How will the public be able to participate in the development and review of policies, Acts, regulations and instruments?
- How do the 3 classes of environmentally significant prescribed instruments compare?
- What is the public appeals process for Class I and II instruments?
- What is the name of the appeal board for MOEE?
- What information does the appeal board consider for granting a third party appeal?

Figure 4.1: EBR Overview



Public Participation and the Environmental Registry

4.1 Why do we need an Environmental Registry?

Each year government makes many decisions in the form of policies, Acts, regulations and instruments. Most of those decisions are made with little or no consultation with the public. When put into practice, they can affect the quality of the environment as we know it today and for future generations. As part of the Environmental Bill of Rights, an Environmental Registry will be put in place to provide for a new minimum level of public participation that must be met before specified ministries make decisions on certain kinds of environmentally significant proposals for policies, Acts, regulations and instruments. **The Registry will provide immediate notice of activities within a ministry that might affect the environment.** The Fourteen ministries which are subject to the EBR will use the Registry for public notices.

4.2 How will the Environmental Registry Operate?

The Electronic Registry is a physical apparatus which will serve as a bulletin board to provide notice to the public to enable participation in environmental decision-making by government. To ensure consistency, the EBR specifies minimum standardized information requirements for notices placed on the Registry. The Registry will be accessible through a computer and modem (dial-up) via an existing network (InterNet, GONet) in the home or office, or a local public information centre (e.g. local public library, college and university library) or a public government facility.

☞ The EBR Office is required to establish the Environmental Registry on behalf of government. During the first year, a MOEE Registry Office will operate and maintain the Environmental Registry System. Beginning in year two of the EBR, a Registrar will function as the principle contact for inquiries as well as to provide advice to Ministry staff regarding use of the Registry. The goal is to provide network access to retrieve and update information on the Registry for all MOEE staff.

☞ All MOEE staff must be familiar with the public participation provisions of the EBR. In particular, staff involved in the issuance of prescribed instruments or the development of policies, Acts, and regulations must be aware of their Registry and decision-making responsibilities under the EBR.

4.3 Information that will be found on the Registry

By serving as a bulletin board, the Registry will facilitate the dissemination of information to the public when proposed environmentally significant decisions are being considered by the province. This will be accomplished by placing a notice for a minimum of 30 days, with a description of the proposal, on the Registry. Since the public has access to the Registry, any

individual will have the opportunity to review and offer his/her views about the proposal during a specific comment period. The following information will be found on the Registry :

- general information on the EBR
- draft and final Statements of Environmental Values,
- environmentally significant proposals for decisions on policies, Acts, and
  prescribed regulations and instruments.
- appeals on instruments
- court actions as a result of law suits

☞ Proposals for Policies, Acts, regulations, and Instruments will include a 100 word abstract or summary of the proposal. Staff will not be required to place full text policies etc. on the Registry.

☞ Staff should refer to the "Implementation Schedule" for a listing of the prescribed acts and the "MOEE's Classification of Instruments" for a listing of prescribed instruments. (Refer to Module 1)

☞ The Registry will provide all of the above noted information to all interested residents of Ontario. This information was not available in a consistent manner in the past.

☞ MOEE staff should refer to the "Implementation Schedule" Regulation for a full listing of the EBR related time lines. This information will ensure that staff are aware of when specific components of the EBR come into effect. This regulation will also ensure that other stakeholders such as industry, interested citizens, environmental groups, etc. know when they may exercise their rights or obligations. As an example, as of October 1, 1994 proposals for certificates of approvals, that are prescribed, will be available on the Registry for comments and viewing by the public.

4.4 How will Public Participation Requirements be Met?

4.4.1 Statement of Environmental Values (SEV)

Refer to Module 3 for details on SEVs.

4.4.2 Proposals for Policies

A government policy is considered **any program, plan, or objective, and including guidelines or criteria used in making decisions regarding proposals of instruments.**

The Environmental Bill of Rights applies to those policies proposed by ministries:

- that may have a significant effect on the environment; and,
- that the minister considers the public should have an opportunity to comment.

Policies that are purely administrative or financial in nature are exempt from Registry notification.

A proposal for a policy must be placed on the Registry for public comment for a minimum period of 30 days. Comments are received, reviewed and considered for inclusion in the decision making process by the ministry.

The decision will be placed on the Registry after public input has been considered. The entire file is left on the Registry for an additional 30 days before it is archived for storage. No judicial reviews or appeals can take place for policies after the decision has been made.

4.4.3 Proposals for Regulations

The EBR applies to those regulations that have significant effect on the environment.

Regulations provide a greater level of detail for implementation and administration of an Act. The EBR applies to all regulations made under a prescribed Act which could have a significant effect on the environment. The process for public consultation regarding regulations are identical to those for policies. However, a **Regulatory Impact Statement** (RIS) may be included in the notice of a proposal for a regulation to permit more informed public consultation. The RIS would include:

- the objectives of the proposal;
- a preliminary assessment of the environmental, social and economic consequences of the proposal;
- an explanation of how the environmental objectives of the proposal would be achieved by making, amending or revoking a regulation.

☞ It should be noted that the public participation rights apply to all of the Acts listed in the Implementation Regulation #1. It will also apply to regulations made under the prescribed Acts as well as all new environmentally significant proposals for policies, Acts, and regulations. (Refer to Module #1)

4.4.4 Proposals for Instruments

An instrument refers to **a licence, permit, Certificate of Approval, control order or other legal authorization under the Act**.

The prescribed instruments are specifically identified in the regulation "MOEE Classifications of Instruments" under the EBR; each instrument is classified to identify a specific required level of public participation.

A proposal for a prescribed instrument is placed on the Registry similar to that of a policy, Act or regulation. If the public requires additional information on an application, they may request to view certain parts of the document at the district office or the issuing office in the regional area of the proposal.

☞ Staff in the District offices and the offices issuing instruments should note that they may be called upon to respond to inquiries from the public viewing the application. These inquiries may lead to discussions and dialogue with other offices/branches to ensure the inquiry is properly addressed.

A new right to appeal the government's decision is established under the EBR for Class I and II instruments ONLY.

The three classes for proposals for instruments are:

Class I:

- Minimum 30 days notice on the Registry
- A hearing is not held

Examples:

EPA s.9:	Approval for discharge into the natural environment other than water (air emission)
EPA s.46:	Approval for use of a former waste disposal site
OWRA s. 34	Permit to take water

Class II:

- Potential for a discretionary hearing (but no hearing is held)
- Minimum 30 days notice on the Registry
- Additional notice and participation opportunities for the public (eg. news releases, public meetings or door to door flyers)

Examples:

EPA s.27	Approval of a waste disposal site with no hearing
OWRA s.53(1)	Approval of sewage works

Class III:

- Mandatory hearing
- Minimum 30 days notice on the Registry

Examples:

OWRA s.53(1)	Approval of sewage works in or into another municipality
EPA s.27	Approval of a waste disposal site with a hearing.

☞ Staff involved in the processing of prescribed proposals for instruments must note that the EBR allows for the enhancement of the minimum public participation requirements. Other means of public consultation may be required for environmentally significant proposals.

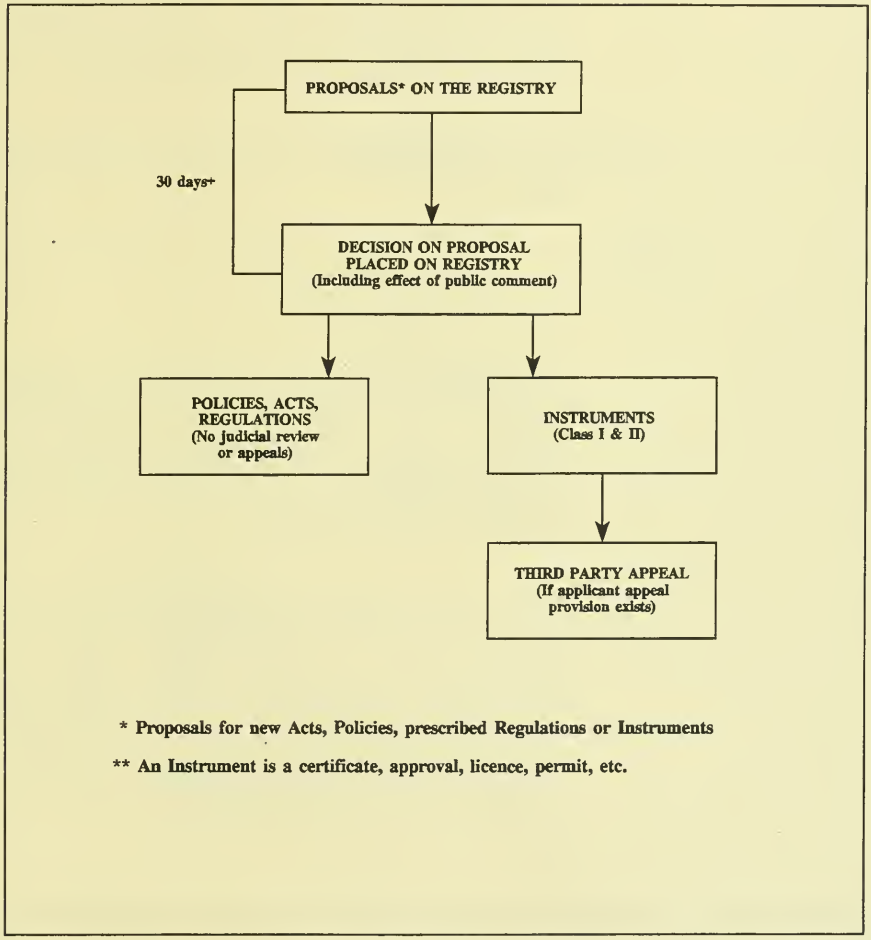
☞ Emergency policies, Acts, regulations and instruments are exempt from the 30 day notification on the Registry. A ministry must place a notice on the Registry of the decision to proceed on an emergency basis.

☞ Bump up provisions for instruments from Class I to Class II and from Class II to Class III are allowed at the discretion of the Ministry.

☞ Instruments resulting from decisions made under an EA process are exempt from the public notification processes.

Figure 4.2 outlines the sequence of events and time lines for the ministry proposals for new Acts, policies, regulations under a prescribed Act and prescribed instruments which provide for public participation.

Figure 4.2: Public Participation



4.4.5 Public Appeals on Class I and Class II Instruments

An appeal process for decisions related to specific instruments (e.g. Class I and II) is also established in Part 2 of the EBR. Once notice of a decision is placed on the Registry, and if an appeal process already exists for that instrument, an individual may apply for ' leave to appeal' the decision. He/she must demonstrate an interest in the decision and that significant environmental damage would occur as a result of the decision.

A single appellate body (Environmental Appeals Board for MOEE)

- reviews and decides on the application for leave to appeal; and,
- hears the appeal.

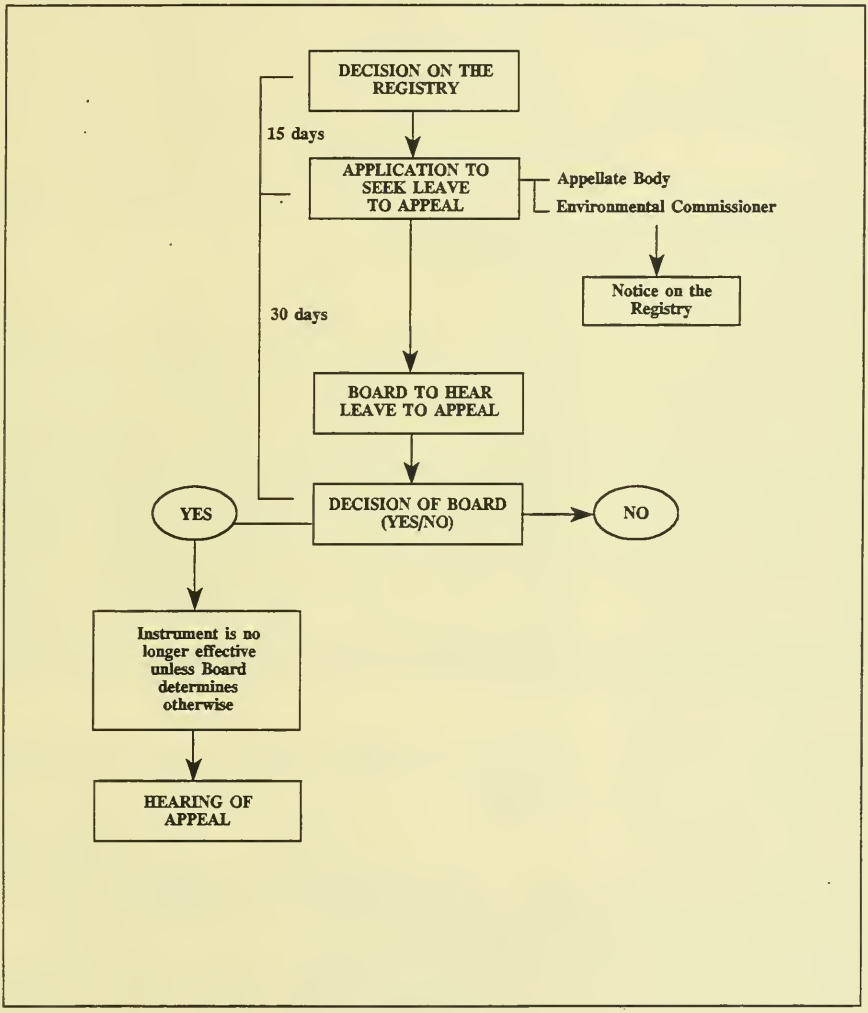
If the application is granted in favour of an appeal, the instrument is no longer valid unless the appeal body decides otherwise. At this point, the hearing of the appeal will begin; the hearing will conclude with a decision by the appeal body.

Any person directly affected by the decision (e.g. an applicant for an instrument or a person subject to the instrument) must give notice on the Registry of the his/her appeal or application for leave to appeal through the Environmental Commissioner. At the discretion of the appeal body, other persons may be permitted to participate in the appeal proceedings.

☞ The EBR does not provide any new appeal provisions. For example, EPA, section 46 decisions are not subject to third party appeals, as the applicants for these instruments do not have automatic right of appeal.

Figure 4.3 outlines the public appeals procedure with time lines for Class I and II instruments.

Figure 4.3: Public Appeals on Class I & II Instruments



4.4.6 Additional Information on the Electronic Registry

The Electronic Registry (ER) will be part of the Government-wide Bulletin Board Service being operated by Management Board Secretariat. Management Board is positioned to provide such a service to all impacted government ministries using the GONet (Government of Ontario Network). The ER application will be the first government application to use this service, but it is anticipated that other ministries will use the infrastructure once the success of the ER application has been demonstrated.

The ER has been developed to ensure information may be accessed through the use of simple search functions and user-friendly menu selections. Users who are unfamiliar with technical jargon may still find the information through simple option selections. Several features have been included which will address the needs of frequent users. These options include the ability to list all entries since a user last accessed the ER, as well as to string commands together to accomplish a search without working through individual menus.

Efforts are underway to enable access to the Registry through:

- home, office, or library computer modem dial up (local or 1-800 phone number);

- the Ontario based Internet system (available at most college and university libraries and business or research institutes);

- government libraries connected to GONet or Internet;

- remote public centres established under the Contact North program; and,

- the WEB technical network administered by the NIRV centre in Toronto.

Anyone who calls long distance outside the province of Ontario to access the ER will have to pay long distance fees.

☞ Ministry staff should know that the Registry is available in french. Registry users may request access to french information (only if applicable)

4.4.7 Network Access to the Environmental Registry:

GONet

The Government of Ontario Network is in place across the province and provides WATT's telephone, Electronic Post Office - EPO, and voice mail services to most of Government. GONet has 300 routers in place in the province and serves 45 cities.

There is no cost to access the ER using an existing GONet router. This GONet capability provides access to InterNet for the government.

InterNet

InterNet is an international web of roughly 14000 computer networks in countries all over the world. These are mostly at universities and government institutions.

ONet is a network within InterNet operating in Ontario. Current ONet members include Ontario universities, colleges, government departments and crown corporations, research centres and private-sector companies.

InterNet users pay a flat fee for a connection to the system. There are no actual usage charges to InterNet users. With the InterNet, access to the ER would be free to the user.

Free-Net

A Free-Net is a free, public access community computer network. A Free-Net offers a wide spectrum of on-line information services to the public, including community and government databases and electronic messaging. Free-Net may generally be accessed via modem dial-up and other electronic networks making it easily accessible from home.

There is no cost for users to access Free-Net. The Free-Net are very popular in major cities and are growing in popularity. If the ER is made available to users of the Free-Net, it has the advantage of reaching a wide general public population and can reduce the number of modem dial-up connections. Operational and capital expenditure funding are maintained through donations.

WEB

The WEB is a computer communications services network operated by the NIRV Community Resources Centre. WEB links over 1500 organizations and individuals in Canada as well as international connections to 94 countries. The WEB is currently being used by the majority of the environmental interest groups in Ontario for messaging and conferencing services. The WEB could be the preferred method of access to the ER by Ontario based environmental interest groups. WEB users pay a membership and usage fee, and will be able to access information from the ER and use the WEB electronic mail to disseminate it.

Self-Evaluation Questions

1. Where can you find information on Ontario Government Ministries that are subject to the EBR?

2. List the locations where information on the Registry will be accessible.

3. Who will eventually have responsibility for the operation and maintenance of the Registry?

4. List the type of information that can be found on the Registry?

5. The Environmental Bill of Rights provides time lines for public notice and responses to public inquires.

5.1 What is the minimum public notice and participation period ?

5.2 How long are decisions left on the Registry to allow an applicant to submit a notice of appeal to the Environmental Commissioner?

5.3 How long is a decision placed on the Registry before it is archived?

6. What is the process if an individual, other than the applicant of a proposal, wishes to appeal a decision?

Since this is considered a third party appeal, what must the individual demonstrate?

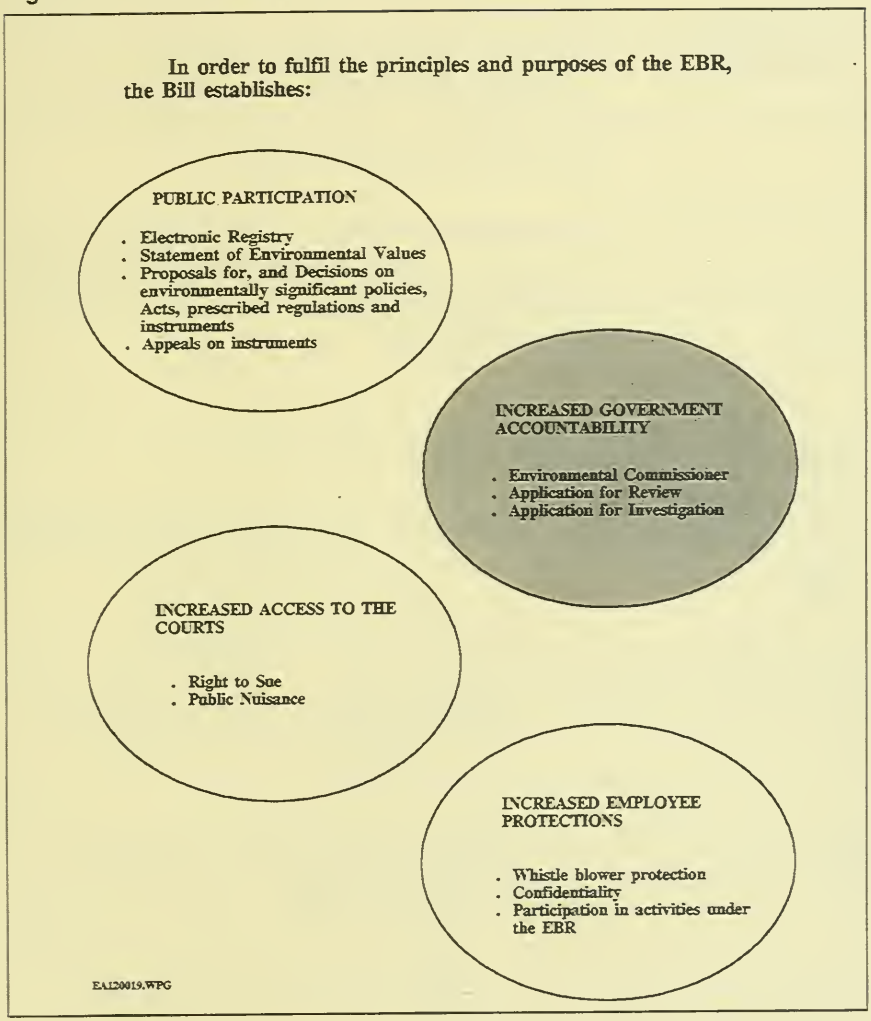
Module 5: The Environmental Commissioner

Learning Goals

When you have completed this module, you will be able to answer the following questions:

- What is the role of the Environmental Commissioner?
- What are the principle responsibilities of this position?
- How is the Environmental Commissioner appointed? To whom does he/she report?
- What should the annual Commissioner's report to the Ontario Legislature contain?
- Where is the Office of the Environmental Commissioner located?
- What functions of the Environmental Commissioner will impact on Ministry staff?

Figure 5.1: EBR Overview



5.1 What is the Role of the Environmental Commissioner?

The Act provides for the appointment of an Environmental Commissioner. The key function of the position is to ensure that government is made accountable for any failure to meet the requirements of the Bill. The decisions made by the office of the Commissioner will be objective, and non-partisan. They will serve as the foundation from which accountability for government environmental decision-making will flow.

The Commissioner will act as a "watchdog" and be responsible for overseeing and monitoring the implementation of the Environmental Bill of Rights and the use of the Statement of Environmental Values.

5.2 What Responsibilities Does the EC Have?

It is the Commissioner's role to review:

- implementation and compliance with the requirements under the EBR by the various ministries;
- the use of the Environmental Registry,
- the exercise of discretion by a minister under the Act,
- the recourse of the third party appeal
- the criteria as specified in PART IV (Applications for Review) which include:
  - receipt, handling and disposition of applications; and
  - plans and priorities for conducting reviews,
- the criteria as specified in PART V (Applications for investigation) which include:

- receipt, handling and disposition of applications.

- the use of the right of action (see explanation below) as specified in the Bill, and

- the handling of PART VII (Employer Reprisals).

When requested by a minister, the Commissioner will:

- provide guidance and advice for ministries on the development, implementation and compliance of the Statement of Environmental Values ;

- assist ministries in providing educational programs about the Bill to the public

5.3 To Whom will the EC Report?

The Commissioner will be responsible for reporting annually to the Ontario Legislature. The initial report will cover the time from the proclamation of Bill 26 to December 31, 1995. This report must include:

- discussion of the level of co-operation with requests for information by the Commissioner demonstrated by the ministries affected by the Act,

- a summary of information gathered by the Commissioner as a result of performing his/her functions, including information about compliance with Ministry SEV's

- a list of policies, Acts, regulations and instruments for which public notice has been given by the ministers before implementation for the period of the report,
- any information prescribed by the regulations under the Act, and
- any information the Commissioner feels appropriate.

5.4 Interim Reports

The Commissioner **may** make interim reports to the Legislature at his discretion on matters of urgency, and he/she shall report on the failure of any ministry to comply with their Statement of Environmental Values

5.5 How will the EC be Appointed?

The Commissioner will be an Officer of the Assembly, appointed for a five-year term with opportunities for reappointment in the future.

☞ All MOEE staff must be aware of the existence of this new office. The Environmental Commissioner's responsibility is to ensure that the EBR is complied with. Staff may receive requests for information or assistance from the EC's office.

Self-Evaluation Questions

1. How will the Environmental Commissioner assist the implementation of the EBR?

2. What are the primary responsibilities of the Environmental Commissioner?

3. What assistance can the various ministries affected by the EBR obtain from the Environmental Commissioner?

4. List the information which should be contained in the Environmental Commissioner's Annual Report to the Ontario Legislature.

5. Under what circumstances can the Environmental Commissioner make Interim Reports to the Legislature?

6. How long a term will the Environmental Commissioner serve?

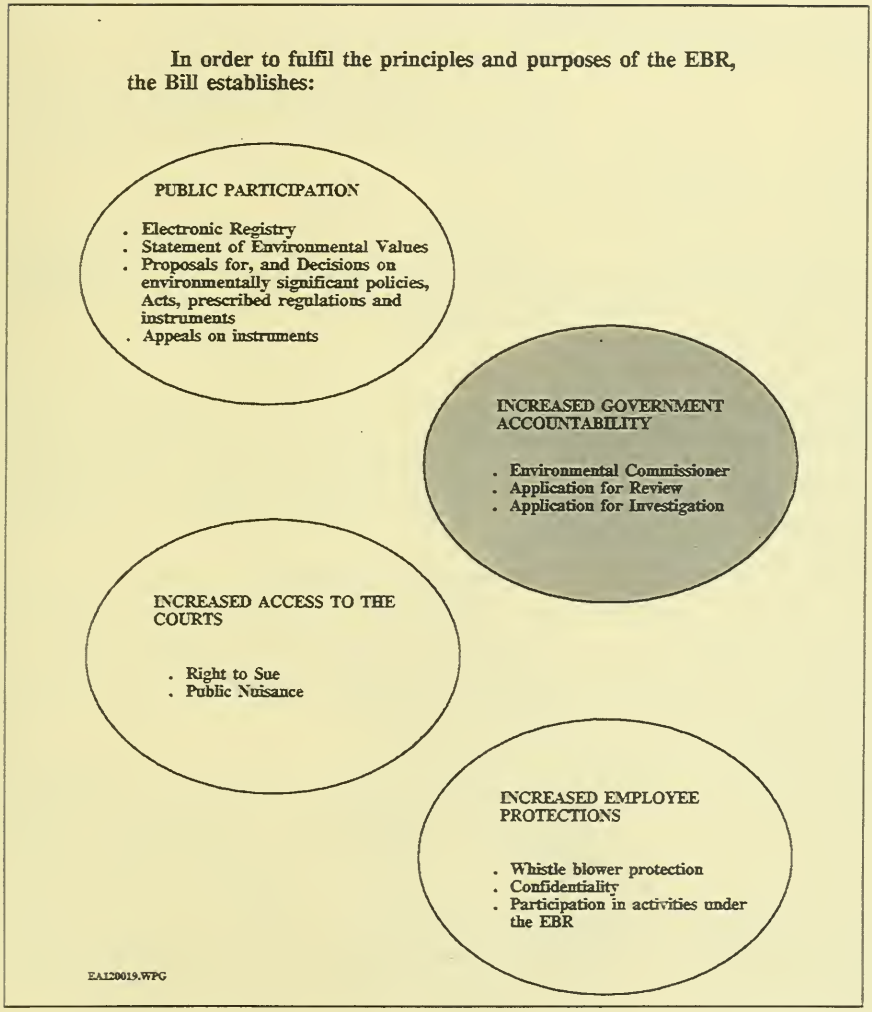
Module 6: Application for Review, Application for Investigation, and Right to Sue

Learning Goals

When you have completed this module, you will be able to answer the following questions:

- What information must the applicant supply on the Application for Review?
- What criteria are used by the Minister to determine whether the public interest warrants a review of the application?
- What criteria are used by the Minister to deny an application?
- What communication time lines apply for a Request for Review and Request for Investigation with respect to the responsibilities of the Environmental Commissioner and the Minister receiving the request?
- What items are eligible for investigation under Part V?
- What compulsory information is required for an application for a request from investigation?
- What criteria are used to assess the need to conduct an investigation?
- When can someone access the courts through the Right to Sue provision?
- What are the conditions to bringing forth a public nuisance suit ?

Figure 6.1: EBR Overview



6.1 Request for Review (Part IV, S.61-73)

6.1.1 Purpose

Part IV of the EBR provides opportunities for the public to request:

- a review of a significant environmental decision made through an existing policy, Act, regulation under a prescribed Act or a prescribed instrument; and

- consideration by a Minister of the need for a new environmental policy, Act or regulation to protect the environment.

6.1.2 Process

An application (letter or form) is submitted to the Environmental Commissioner by any two residents of Ontario. Applicants must supply the following information:

- their names and addresses;
- an explanation of why the review should be conducted to protect the environment; and
- scientific or technical evidence to support the application.

The Commissioner has up to 10 days to check the application for content and completeness before forwarding the application to the appropriate Minister. The Minister is obliged to respond by notifying the applicants that the application has been received. Names and other personal information about the applicants will remain confidential throughout the review process.

6.1.3 Preliminary Review

Once the application for review is submitted, the Minister must consider whether it warrants further action.

The following criteria are used in the preliminary review to determine whether the public interest warrants a review:

- applicability to his/her ministry:
- whether the Act, regulation or instrument is prescribed
- the ministry Statement of Environmental Values;
- potential harm to the environment;
- whether the matter is already subject to periodic review;
- consideration of any social, economic, scientific or other evidence;
- resources required to conduct the review;
- any other matter considered relevant; and
- submission of information by other interested parties.

The Minister is required under the Act to acknowledge receipt of the application from the Commissioner within 20 days to the applicants. Other parties who have a direct interest in the application, such as a holder of the instrument subject to the review, must be notified within the same time period.

In addition to determining the extent of public participation, the Minister will evaluate how recently the decision under review was made before proceeding.

6.1.4 Decision Resulting from the Review

The Act stipulates that a Minister may develop plans and set priorities for reviews to ensure consistency in the review process. In determining if the review of the decision is in the public interest, the Minister can deny an application if:

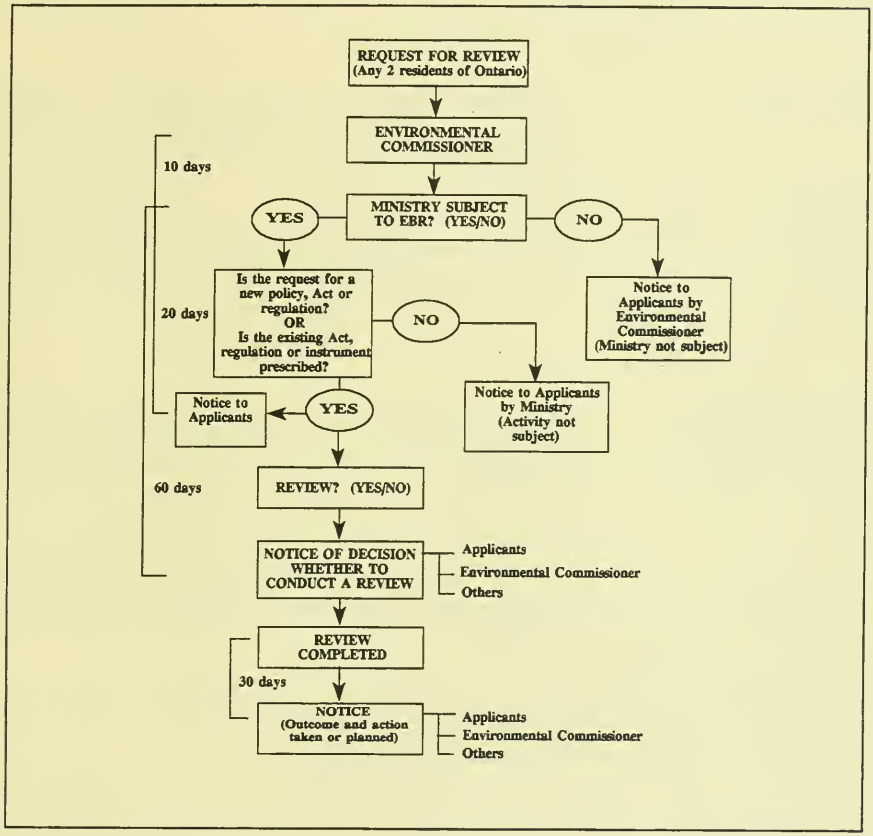
- the decision was made within the preceding 5 years; and
- other means of public participation were used consistent with the intent and purpose of the Environmental Bill of Rights.

If there is evidence e.g. social, economic, scientific, etc. to suggest that failure to review an application could result in significant harm to the environment, and if evidence was not taken into account when making the decision under question, the Minister must assess if it is in the best interest of the public to proceed with a review.

☞ A minister is not required to review a request for a new exemption under the Environmental Assessment Act.

Figure 6.2 outlines the process and time frames for the application for review.

Figure 6.2: Application for Review



☞ Ministry staff may be required to participate in conducting reviews.

6.2 Request For Investigation (Part V, S. 74-81) --

6.2.1 Purpose

The EBR allows two Ontario residents to request an investigation through a formal application process if they believe:

- a prescribed Act, regulation or instrument under the Environmental Bill of Rights has been contravened.

6.2.2 Process

An application for a request for an investigation must be submitted as a sworn statement by any two residents of Ontario to the Environmental Commissioner.

The names of the applicants and other information about them remain confidential throughout the investigative process.

Applicants who make false statements run the risk of being penalized.

6.2.3 Content of the Application

The application will include the following information:

- names and addresses of:
  - the applicants
  - the alleged contraveners
  - witnesses;

- a statement of the nature of the alleged contravention;

- supporting evidence, including documents and relevant materials;
- details of previous inquires of the alleged contravention to other Ministries' offices or the Environmental Commissioner.

6.2.4 Decision to Investigate

The extent of the investigation and/or the decision on whether or not to conduct an investigation resulting from the application is left to the discretion of the Minister. An investigation is not required if the Minister considers that:

- the application is frivolous or vexatious; or,
- the alleged contravention is not:
  - serious enough to warrant an investigation; or,
  - likely to cause harm to the environment; or
- there is an ongoing or completed investigation.

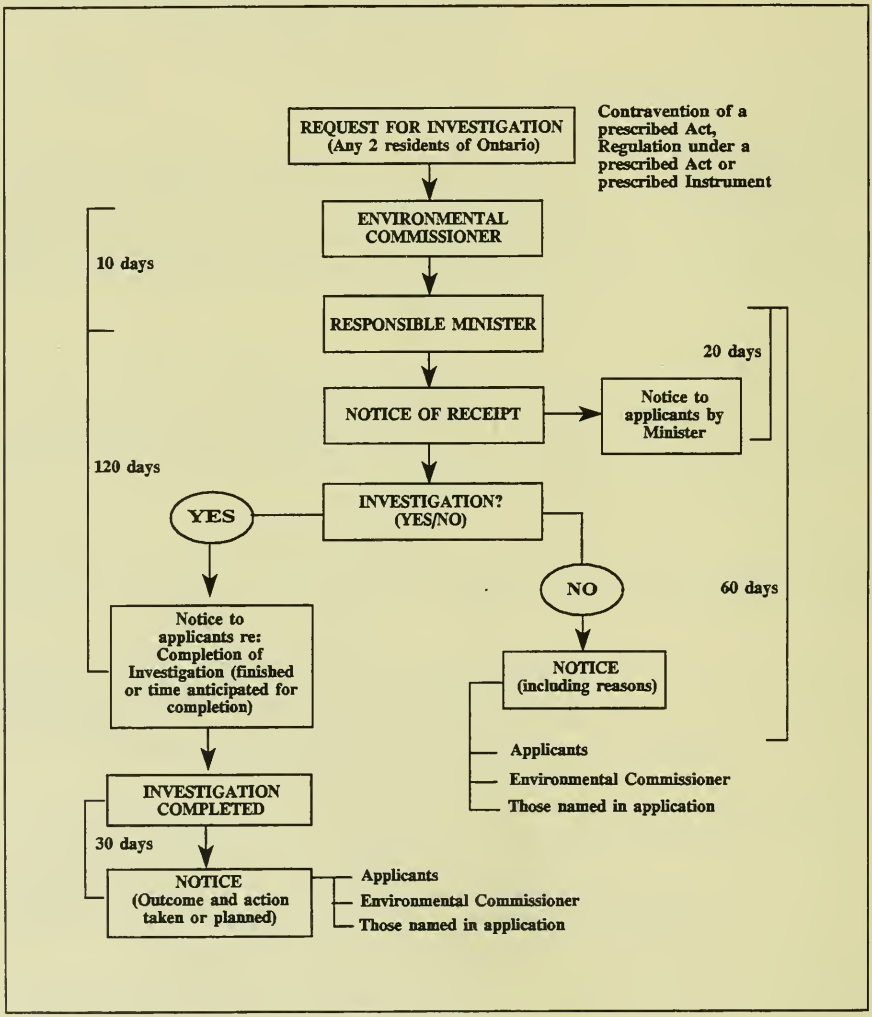
The applicants, the Commissioner and those alleged in the application are notified if the Minister decides not to investigate. The reasons why an investigation is not to be conducted is also provided.

Once the investigation is complete (if conducted), the Minister is required to notify the applicants, Commissioner, and those named in the application of:

- the outcome of the investigation
- any actions taken or to be taken as a result of this investigation

Figure 6.3 outlines the process implemented for an application for investigation.

Figure 6.3: Application for Investigation



☞ The MOEE staff will respond to an investigation using current procedures. The requirements of the EBR are only employed when a formalized Application for Investigation is initiated through the Environmental Commissioner's office. The normal practice of dealing with telephone or personal reports of alleged contraventions will still be used in most cases.

6.3 Right to Sue (Part VI, S. 82-102)

This Part of EBR includes:

- new rights to access the courts
- removal of barriers to public nuisance

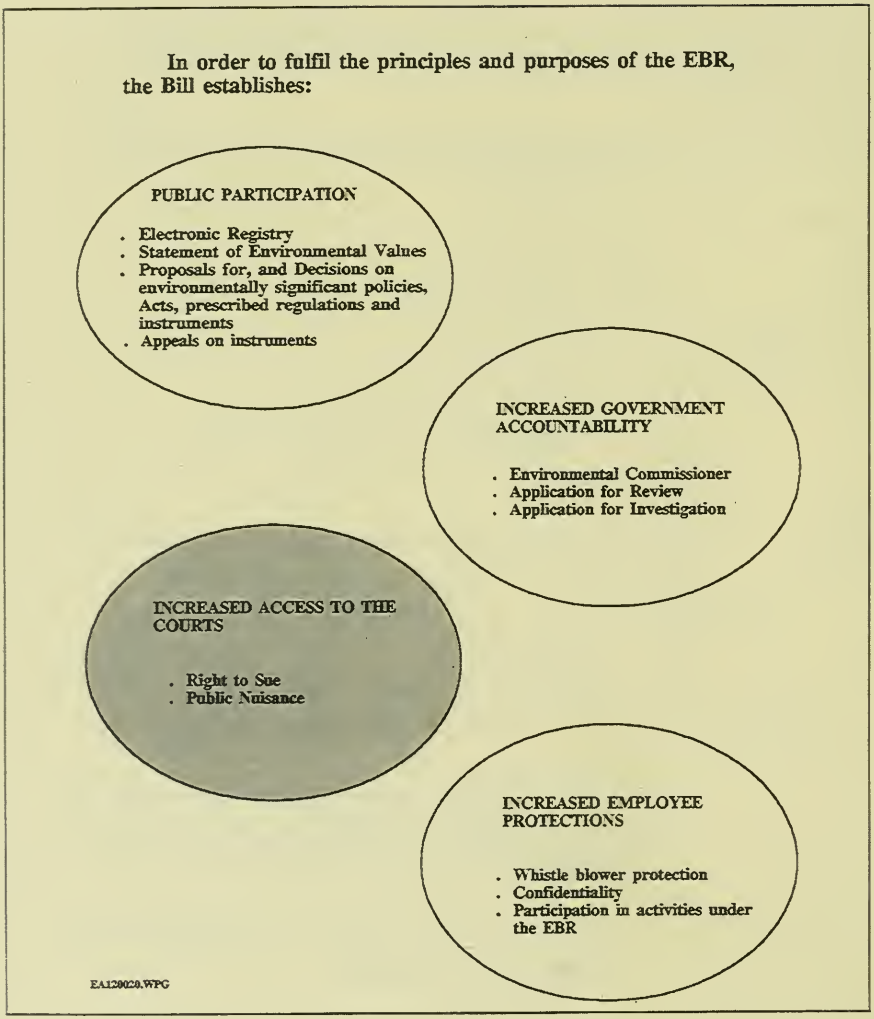
6.3.1 Civil Action

Under this Part of the EBR, a law suit may be initiated as a last resort by a member of the public against:

- an individual who is alleged to have broken an environmental law resulting in significant environmental harm to a public resource *; or
- anyone who is alleged to imminently break an environmental law which will cause significant environmental harm to a public resource.

* you must first complete the Application for Investigation procedures.

Figure 6.4: EBR Overview



☞ It is important to note that the EBR creates a new right to sue, but does not create new offences. In addition, an individual can go to court only to protect a public resource and not to receive personal award or compensation for damages.

☞ Ministry staff will not be involved in the initiation of court actions. However, staff can be called upon as expert witnesses, as is the current procedure. Ministry staff should be aware of this provision in the Bill for answering public inquiries.

☞ Ministry staff should note that the Act requires that an individual allow the government an opportunity to conduct an investigation before bringing forth an action to the courts.

If the individual receives an unreasonable response or does not receive a response to his/her application for investigation within the time frames set out in Part 5, he/she may pursue civil action. In cases where the actual or imminent harm will occur from an agricultural operation (caused by odour, noise or dust), the plaintiff must first apply to the Farm Practices Protection Board. The Board must first make a ruling before the individual proceeds to a Request for Investigation and then on to the civil action.

If the delay involved in applying for an investigation or applying to the Farm Practices Protection Board could lead to significant harm to the environment, an individual need not comply with these requirements before proceeding with the civil action.

Notice of a law suit must be submitted to both the Attorney General and the Environmental Commissioner; the latter has the responsibility of posting it on the Registry to provide an opportunity for others to participate in the proceedings. The Bill provides that compliance with environmental standards, due diligence and a reasonable interpretation of the requirements of an approval, licence, permit, etc. are reasonable defences to the action.

A ruling by the court, or court action, could result in a remedy, dismissal, discontinuance, abandonment or settlement related to the law suit.

6.3.2 Remedies from Civil Action

Remedies recognized in the EBR include:

- an order to stop the activity (an injunction);
- an order to develop a plan for cleanup and restoration; or,
- any other orders (cannot be inconsistent with provisions of the Farm Practices Protection Act).

There can be no personal award for damages.

Once a decision has been made, the Environmental Commissioner will place notice of it on the Registry for the public.

6.3.3 Public Nuisance

Part 6 eliminates an existing rule that has limited access to the courts for a public nuisance that causes harm to the environment. This will allow any person who has suffered direct economic loss or personal injury as a result of a public nuisance causing environmental harm to sue for damages or other remedies.

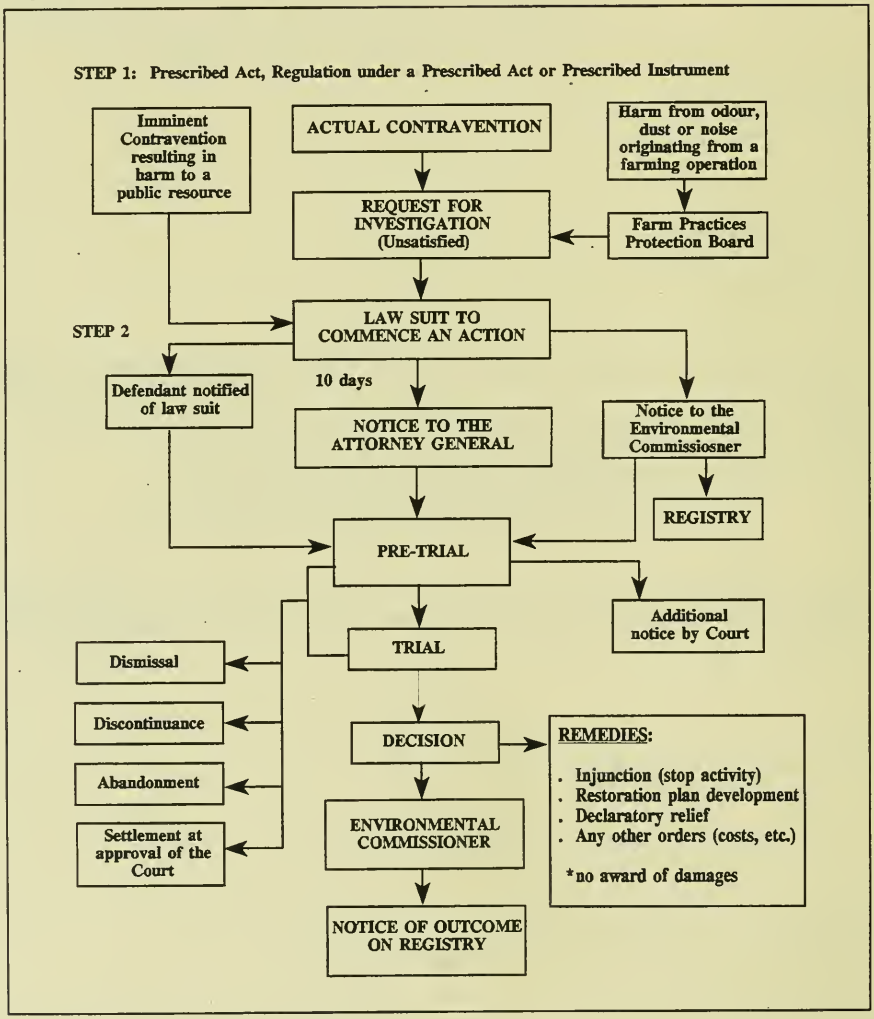
☞ Previously, any person who suffered direct economic loss or personal injury as a result of a public nuisance would have to:

- be represented by Office of the Attorney General;
- illustrate that the harm suffered was unique to them.

This new public nuisance right removes these barriers.

Figure 6.5 outlines the process for Right to Sue as specified in Part 6 of the Environmental Bill of Rights.

Figure 6.5: Right to Sue



Self-Evaluation Questions

1. What is the purpose of the Request for Review?

2. Outline the responsibilities of each of the following in the Request for Review process with his/her responsibilities where appropriate.

   2.1 Applicants

   2.2 Environmental Commissioner

   2.3 Minister

3. Under what circumstances can a Minister deny the Request for Review?

4. Under what circumstances would members of the public submit a Request for Investigation?

5. Who makes the decision on the extent of the investigation which will result from the Application?

6. Under what circumstances can a Minister refuse an investigation?

7. What responsibilities does the Environmental Commissioner have?

8. How does the EBR affect a Ministry's usual response to complaints, alleged contraventions, etc.?

9. In what cases may a court action be initiated without a formal Request for Investigation ?

10. What is the difference between the EBR's Right to Sue and Public Nuisance provisions ?

Module 7: Public Participation in Government Decision-Making

Learning Goals

On completion of this module, you will be able to answer the following questions:

- What are the mechanisms provided by the Environmental Bill of Rights for the public to participate in proposed environmentally significant decisions?
- What types of information must the Minister provide when giving the public notice of proposals?
- What are the three classifications of "instruments" and under what circumstances might they be exempt from public participation requirements?
- What are the circumstances under which individuals may take legal action to protect the environment?
- What protection from employer reprisals does the Bill provide for individuals who wish to participate in environmental decision-making?

Public Participation in Government Decision-Making

7.1 What is the Public Participation Provided by the EBR?

Public participation is the foundation of the Environmental Bill of Rights. The Bill is based on the principle that every citizen has the right to participate in decisions affecting the environment. The unique feature of the EBR is its reliance on the democratic process rather than the courts as the public's first line of defence in protecting the environment. Public participation in decision-making and greater political accountability for government decisions which are taken should result in sounder environmental decisions. Therefore, the need for the public to have recourse to the courts should be greatly reduced.

The bill provides the public with an opportunity to take a proactive approach to the prevention of environmental harm, rather than merely an opportunity to go to court after the harm has already occurred.

7.1.1 What Processes in the EBR Allow for Public Participation?

The Bill allows for public participation in each of the following parts of the Bill:

- The Environmental Registry
- Statement of Environmental Values
- Proposals for and Decisions on Policies, Acts, regulations and Instruments
- Applications for Review

- Applications for Investigation
- Right to Sue
- Employee Protections

7.1.2 How Does the Environmental Registry Assist Public Participation?

You will recall that the Environmental Registry was described fully in Module 4. The Registry provides a means by which notice of environmentally significant proposals, decisions, SEVs, appeals, and court actions can be provided to the public. The public will have greater access than ever before to information concerning important environmental policies and practices.

7.1.3 How is Public Participation Incorporated into the SEV?

In Module 3 we learned that each Ministry subject to the Act must give notice to the public through the Registry of the draft Statement of Environmental Values. The notice must include the following information:

- text of the draft statement, or synopsis of the draft
- statement of how members of the public can obtain copies of the draft
- statement of when the Minister expects to finalize the statement
- invitation to members of the public to submit written comments within a specified time period
- description of any additional rights of participation in developing the statement
- the address to which comments and questions can be directed

The SEV will be finalized within nine months of the proclamation of the Bill. Each time the SEV is modified, the entire process for public participation will be repeated. (Refer to Figure 3.1)

7.2 What Public Participation Requirements Apply for Proposals, Policies, Acts, Regulations and Instruments?

7.2.1 Policies and Acts

The term "policy" refers to a program, plan or objective and includes guidelines or criteria to be used in making decisions about the issuance, amendment or revocation of instruments.

Ministers are required to determine whether or not proposed policies or Acts in their Ministry are environmentally significant. If they are judged to be significant, the Minister must notify the public at least thirty days before a proposal is implemented, except in cases where the Policy or Act is financial or administrative in nature. All reasonable steps must be taken to consider public comment when a decision is made on the proposal, and to notify the public as soon as possible after the proposal is implemented.

7.2.2 Regulations

Similar to the process for Policies and Acts, Ministries are required to give the public thirty days' notice of a proposed environmentally significant regulation, to allow for public comment. When giving notice, Ministers may choose to include a regulatory impact

statement which defines:

- the objective of the proposal
- preliminary assessment of the environmental, social and economic consequences of implementing the proposal
- explanation of why the environmental objectives, if any, of the proposal would be achieved by making, amending or revoking a regulation.

7.2.3 Instruments

An "instrument" is any legal document issued under the Act, including a permit, licence, approval, authorization, direction or order issued under an Act. The EBR establishes three classes of environmentally significant instruments:

Class I
- **requires a minimum of 30 days' notice on the Registry**
- **a hearing is not held**

Class II
- **potential for a discretionary hearing (but no hearing is held)**
- **minimum of 30 days notice on the Registry**
- **additional notices to the public (e.g. news releases, signs or door-to-door flyers)**

Class III
- **mandatory hearing**
- **minimum of 30 days notice on the Registry**

7.3 Are Any Policies, Acts, Regulations, or Instruments Exempt from Public Participation Requirements?

- Emergency: Where in the opinion of the Minister, the delay involved in giving notice to the public would result in health or safety risks to any person, harm or serious risk to the environment, or injury or damage or serious risk of this to any property. Notice of the decision and details of the proposal will be provided on the Registry.

- When other public participation processes that are equivalent to the EBR requirements are used, the Minister must give notice, with reasons for giving no notice, on the Registry.

- When instruments are used to implement an undertaking or other project approved by a tribunal decision, or a decision made under the Environmental Assessment Act.

- When instruments form part of or give effect to a budget or economic statement presented to the Legislative Assembly.

7.4 How Do Requests for Review and Requests for Investigation Meet Public Participation Needs ?

As described in Module 6, Request for Review and Request for Investigation are two significant mechanisms by which the public can participate in environmental decision-making.

Request for Review provides an opportunity for the public to request a review of a significant environmental decision made through an **existing** policy, act, regulations under a prescribed act or

prescribed instrument, or to ask a Minister to consider the need for a **new** environmental policy, Act or regulation.

Request for Investigation allows members of the public to request an investigation through a formal application process in situations where they believe a prescribed Act, regulation or instrument under the EBR has been contravened.

7.5 Does the Public Have the Right to Sue?

The Bill is based on the framework that the government be given an opportunity to investigate and act before members of the public are allowed to initiate a civil action to protect a public resource. This is consistent with the principle that the government, not the courts, has the primary responsibility for environmental standards. Recourse to the courts should be regarded as a last resort. (Refer to Module 6) However, the Act does allow members of the public to take legal action if the delay caused by applying for an investigation under the EBR would result in harm to the environment. Legal action is also an option if an individual has made an application under the Bill and is not satisfied with the response and/or timing. Also, in the case of odour, noise, or dust from agricultural practices, complaints will first be made to the Farm Practices Protection Board.

7.6 What Protections Does the Bill Provide for Workers?

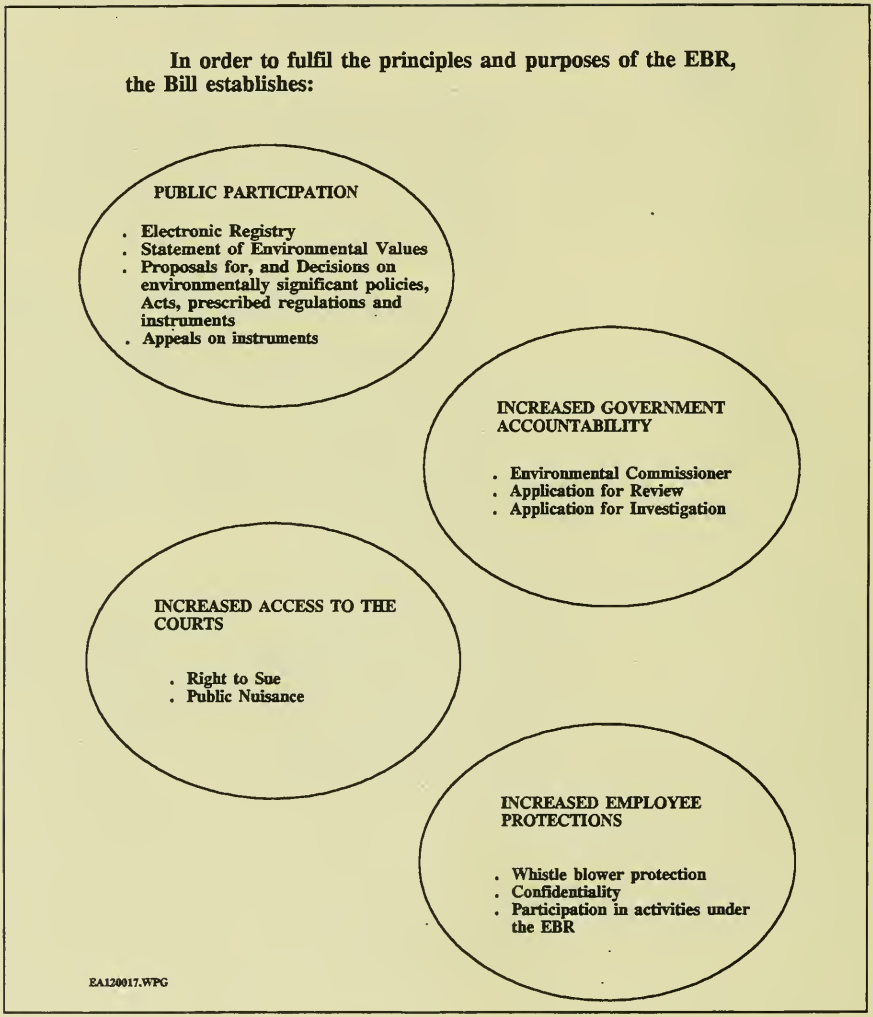
Protecting the public from employer reprisals is another important means of facilitating public participation. Protection is provided in the following ways:

- Any person who believes that an employer has taken reprisals against him/her for making use of the Environmental Bill of Rights may file a complaint with the Ontario Labour Relations Board

- Protection from employer reprisals also applies to employees who comply with or seek the enforcement of a prescribed Act, regulation or instrument. This right expands protections from the Environmental Protection Act to twenty statutes under the EBR. (Refer to Module 1 for MOEE statutes)

The OLRB may make inquiries into the complaint. If satisfied that the employer has taken reprisals, the board may order the employer to take action such as ceasing the acts about which the employee complained, rectifying these acts, or reinstating or compensating the employee.

Figure 7.1: EBR Overview



Self- Evaluation Questions

1. What is unique about the EBR's approach to public participation?

2. If citizens want to exercise their right to participate in environmental decision making, how can they find out about environmentally significant proposals and decisions?

3. How can the public learn about and provide input into the Statements of Environmental Values developed by the various ministries?

4. What public participation requirements must a ministry meet regarding:

   4.1 policies and acts?

   4.2 environmentally significant regulations?

   4.3 instruments?

   Class I:

   Class II:

   Class III:

5. Under what circumstances are instruments exempt from public participation?

6. What other rights exist for the public to get involved?

7. What provisions are outlined in the Act to protect employees who make use of the EBR from reprisals from their employers?

Appendix

A. Implementation Regulation #1

- A.1 Ministries Subject to the EBR
- A.2 Time Lines for Implementation
- A.3 Prescribed Acts

B. MOEE Classification Regulation #2

- B.1 Prescribed Instruments to Date Under EBR

C. Glossary

D. Examples of Policy

E. Model for Electronic Transfer of Information within MOEE

Appendix A.1

Ministries Subject to the EBR

The following ministries are subject to the EBR:

- **Ministry of Agriculture and Food (OMAF)**
- **Ministry of Consumer and Commercial Relations (MCCR)**
- **Ministry of Culture, Tourism and Recreation (MCTR)**
- **Ministry of Economic Development and Trade (MEDT)**
- **Ministry of Environment and Energy (MOEE)**
- **Ministry of Finance (MOF)**
- **Ministry of Health (MOH)**
- **Ministry of Housing (MOHous)**
- **Ministry of Labour (MOL)**
- **Management Board of Cabinet (MB)**
- **Ministry of Municipal Affairs (MMA)**
- **Ministry of Natural Resources (MNR)**
- **Ministry of Northern Development and Mines (MNDM)**
- **Ministry of Transportation (MOT)**

These ministries are required to develop and implement Statements of Environmental Values.

Appendix A.2

Time Lines for Implementation (Based on January 1994 Proclamation)

Statement of Environmental Values:

Draft SEV	April 1, 1994	All Ministries
Final SEV	October 1, 1994	All Ministries

Proposals for Environmentally Significant Policies and Acts

MOEE	July 1, 1994
All other Ministries	April 1, 1995

Proposals for Regulations and Instruments for Prescribed Acts:

MOEE	Oct. 1,1994
MNR	April 1,1996
MNDM	April 1,1996
MCCR	April 1,1996
MMA	April 1, 1998

Request for Investigation / Civil Action:

MOEE	July 1, 1994
MNR, MNDM, MCCR	April 1, 1996

Request for Review:

MOEE	Jan. 1, 1995
MNR, MNDM, MCCR, OMAF	April 1, 1996
MMA	April 1, 1998

Appendix A.3

Prescribed Acts

The Acts prescribed for MOEE that will be subject to the Registry requirements include:

Energy Efficiency Act

Environmental Assessment Act

Environmental Protection Act

Niagara Escarpment Planning and Development Act

Ontario Waste Management Corporation Act

Ontario Water Resources Act

Pesticide Act

Waste Management Act, 1992

Appendix B.1

Prescribed Instruments to Date Under the EBR

Section	Class	Instrument
Environmental Protection Act		
section 7	II	Order for controlling contaminant discharge
section 9	I	Approval for discharge into the natural environment other than water (i.e. air emissions)
section 10	II	Approval of a program for preventing, reducing, or controlling discharge
section 17	II	Order for remedial work
section 18	II	Order for preventative measures
section 27	II	Approval for a waste disposal site (III > 1500 people equivalents)
section 43	II	Order for removal of waste and restoration of site
section 44	II	Order for conformity with Act for waste disposal sites
section 46	I	Approval for use of former waste disposal site
section 79	II	Order for private sewage system
section 136	II	Order for performance of environmental measures
Reg. 362, section 6	I	Instructions for management of PCB waste
Ontario Water Resources Act		
section 31	II	Order prohibiting or regulating discharge of sewage into water
section 32	II	Order for preventative measures for facilities discharging into water
section 34	I	Permit to take water
subsection 34(7)	II	Notice for regulating water diversion
subsection 52(3)	II	Order or direction for unapproved water works
section 52(6)	II	Direction for maintaining water works
section 53(1)	II	Approval for sewage works (III - in or into another municipality)
section 53(3)	II	Order for unapproved sewage works
section 61	II	Direction for maintaining sewage works
section 62(1)	II	Direction on a report respecting sewage works or water works for municipalities
section 74(2)	II	Order designating public water or sewage service area
section 91	II	Direction for sewage disposal (III - EA board Hearing is mandatory)
section 92	II	Order to stop or regulate discharge of sewage into sewage works
Reg. 903, subsection 21(5)	II	Direction to abandon a well
Pesticides Act		
section 28	II	Order for controlling the handling, storage, use, disposal (etc) of pesticides
Regulation 914	I	Interim Status Schedules

Appendix C

Glossary of Terms and Definitions :

air: means open air not enclosed in a building, structure, machine, chimney, stack or flue.

appellate body: a body which hears an appeal on a court decision (Environmental Appeal Board for MOEE)

environment: means air, land, water, plant life, animal life and ecological systems of Ontario.

harm: means any contamination or degradation and includes harm caused by the release of any solid, liquid, gas, odour, heat, sound, vibration or radiation.

instrument: means any document of legal effect issued under an Act and includes a permit, licence, approval, authorization, direction or order issued under an Act, but does not include a regulation.

land: means surface land not enclosed in a building, land covered by water (which, for greater certainty, includes wetland) and all subsoil.

policy: means a program, plan or objective and includes guidelines or criteria to be used in making decisions about the issuance, amendment or revocation of instruments but does not include an Act, a regulation or an instrument.

public land: means land that belongs to,

a) the Crown in right of Ontario
b) a municipality, or
c) a conservation area,

but does not include land that is leased from a person referred to in clauses (a) to (c) and that is used for agricultural purposes.

public resources: means,

(a) air
(b) water, not included in a body of water the bed of which is privately owned and on which there is no public right of navigation,
(c) unimproved public land,

(d) any parcel of public land that is larger than five hectares and is used for,

(i) recreation,
(ii) conservation,
(iii) resource extraction,
(iv) resource management, or
(v) a purpose similar to one mentioned in subclauses (i) to (iv)
and,

(e) any plant life, animal life or ecological system associated with any air, water or land described in clauses (a) to (d).

prescribed: means those Acts, regulations and instruments specified in the regulations accompanying the Bill.

registry: means the environmental registry established under section 5.

regulation: refers to the powers and obligations of a regulatory agency and the responsibilities provided for in the Acts (has the same meaning as in the **Regulations Acts**).

water: means surface water and ground water.

Appendix D

Examples of Policy

- **corporate policy/program/strategy**

  - 3 R's
  - Green Industry Strategy
  - Pollution Prevention
  - New Energy Directions
  - MISA

- **operational guidelines/program**

  - Reasonable Use Policy (15-08)
  - Financial Assurance (02-03)
  - Phosphorus Removal (08-04)
  - Compliance Policy
  - Bans and Phase-outs
  - landuse planning guidelines
  - funding criteria
  - codes of practice
  - Operation of the API and AQI
  - *protocols*
  - *Notices to Part VIII Directors*

- **plans**

  - Remedial Action Plans
  - Lake Ontario Toxics Management Plan

- **standards/criteria/objectives**

  - Provincial Water Quality Objectives
  - Decommissioning Criteria
  - Provincial Drinking Water Objectives

- **memorandums of understanding**

  - Canada-Ontario Agreement

- **other**

  . CCME guidelines/criteria/objectives
  . IJC guidelines
  . standards/guidelines/objectives of other jurisdicitons used by Ontario eg. 10 State Standards

Appendix E - MOEE Model for Electronic Transfer of Information